

REPORT BY THE
AUDITOR GENERAL
OF CALIFORNIA

**THE CALIFORNIA PUBLIC BROADCASTING
COMMISSION NEEDS TO CLARIFY POLICIES
AND CORRECT ADMINISTRATIVE DEFICIENCIES**

REPORT BY THE
OFFICE OF THE AUDITOR GENERAL
TO THE
JOINT LEGISLATIVE AUDIT COMMITTEE

267

THE CALIFORNIA PUBLIC BROADCASTING
COMMISSION NEEDS TO CLARIFY POLICIES
AND CORRECT ADMINISTRATIVE DEFICIENCIES

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P-267

Honorable Art Agnos
Chairman, and Members of the
Joint Legislative Audit Committee
State Capitol, Room 3151
Sacramento, California 95814

Dear Mr. Chairman and Members:

The Office of the Auditor General presents its report concerning the California Public Broadcasting Commission's need to clarify policies and to correct administrative deficiencies. Specifically, policies need to be developed that define the authority of the executive secretary. Also, policies are needed to ensure that the CPBC does not have a conflict of interest. Lastly, the CPBC needs to comply with state contracting and personnel procedures.

Respectfully submitted,

Mary P. Nolle
for

THOMAS W. HAYES
Auditor General

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SUMMARY

The California Public Broadcasting Commission (CPBC) is an independent state agency responsible for encouraging the growth and development of public broadcasting in the State. CPBC activities include making grants to public broadcasting stations and facilitating the distribution of public television and radio programs. However, administrative deficiencies are reducing the CPBC's ability to carry out its legislative mandates. These deficiencies relate to the CPBC's process for awarding contracts and grants, its fiscal procedures, and its policies and procedures related to personnel.

Contract and Grant Administration

The CPBC does not have a formal policy that sufficiently defines the executive secretary's authority to award contracts and grants. As a result, the executive secretary has made decisions regarding contracts and grants that may not reflect the CPBC's priorities. Furthermore, the CPBC has allowed contractors to begin work before their contracts received final approval from the Department of General Services, and the CPBC awarded two contracts when the availability of funds was uncertain. As a result of these conditions, the CPBC has incurred unapproved financial liabilities. In one instance, the CPBC was liable for \$31,000 because it awarded a contract that had not been formally approved by the Department of General Services. Finally, the CPBC did not award direct aid and fellowship grants for fiscal year 1981-82 in a timely manner. For fiscal year 1982-83, however, the CPBC did award these grants more promptly.

Fiscal Procedures

The CPBC needs to improve its fiscal procedures. Because the CPBC has not properly charged expenditures to specific programs, it cannot accurately determine actual program costs and use these costs for planning future programs. The CPBC has also overexpended budgeted amounts. Additionally, the CPBC lacks a formal policy for determining which budget decisions require approval by commissioners and which budget decisions may be made by the executive secretary alone. Consequently, the executive secretary may make budget changes and redirect resources in ways that do not reflect CPBC priorities.

Personnel Administration

Finally, the CPBC has exhibited weaknesses in personnel administration. The CPBC has not fully complied with state policies and regulations regarding the hiring of special consultants and the reporting of attendance. As a result, the CPBC may incur unapproved financial liabilities and unnecessary costs. In addition, the CPBC has allowed staff to be routinely paid for overtime; this action does not demonstrate good administrative practice, and it increases state costs. Furthermore, because the CPBC has not fully established procedures for identifying potential conflict of interest, commissioners may participate in decision-making activities that involve a conflict of interest. As a result, state policy could be formulated for private or personal interests and not in the best interest of the State.

Recommendations

To address the problems related to contract and grant administration, the CPBC should develop formal written policies clearly defining the authority of the executive secretary, the CPBC chairman, and the grants and budget committees in approving contracts. The CPBC should also comply with current state policies by not allowing a contractor to start work before the contract is approved and by not awarding a contract until all required funding approvals have been obtained.

To address the problems related to fiscal procedures, the CPBC should implement cost allocation procedures that will identify all costs by budgeted programs. The CPBC should also monitor expenditures closely to ensure that budgeted amounts are not overexpended. In addition, the CPBC should develop a formal written policy that will sufficiently define the executive secretary's authority and the authority of the budget committee in making budget changes.

Finally, to address the problems related to personnel administration, the CPBC should comply with state regulations and policies regarding the hiring of special consultants, reporting attendance, and compensating for overtime. Furthermore, the CPBC should establish procedures for reviewing all economic interest statements submitted by commissioners, and it should seek legal opinions when personal interests may conflict with CPBC policy decisions.

INTRODUCTION

The California Public Broadcasting Commission (CPBC) is an independent state agency responsible for encouraging the growth and development of public broadcasting. CPBC activities that are authorized by statute include making grants to public broadcasting stations and facilitating the distribution of public television and radio programs throughout the State.

The CPBC is composed of 11 members: 9 of the commissioners are appointed by the Governor, the Senate Rules Committee, and the Speaker of the Assembly. The Superintendent of Public Instruction and the Director of California Postsecondary Education serve as ex-officio commissioners. Commissioners should provide a broad representation of the various regions of the State and various professions and kinds of experience appropriate to the responsibilities of the CPBC. Commissioners also serve on one of three standing committees established by the CPBC: the budget committee, which is responsible for the CPBC's budget and for monitoring expenditures; the grants committee, responsible for all of the CPBC's grants and the policy issues related to grants; and the policy committee, which handles general policy items.

In addition, to the standing committees, three statutory advisory committees provide information and advice to the CPBC regarding public broadcasting needs and policy. The statutory advisory committee for television consists of representatives from each of the 12 public television stations in California, while representatives from the State's 26 public radio stations form the advisory committee for radio. The Instructional Broadcast Advisory Committee includes representatives from various state educational entities.

The CPBC appoints an executive secretary and employs staff to conduct CPBC activities. The CPBC currently has eight staff members who provide program services, public information services, and administrative services to the CPBC, the public broadcasting community, state government, and the public.

While the CPBC is an independent commission, organizationally it is under the oversight authority of the State and Consumer Services Agency. The CPBC contracts with the California Postsecondary Education Commission for some personnel services and for recordkeeping functions pertaining to budgeting and accounting.

The CPBC is supported primarily from the State's General Fund. For fiscal year 1981-82, expenditures amounted to approximately \$1.9 million. The CPBC awarded approximately

\$1.4 million in grants for public television and radio programming and in direct aid grants to public television and radio stations.

SCOPE AND METHODOLOGY

In this audit, we focus on the CPBC's administration of public broadcasting activities. We reviewed the CPBC's administrative policies and procedures relating to contract and grant administration, accounting controls, and personnel administration.

To evaluate the CPBC's policies and procedures for awarding contracts and grants, we analyzed state contracting procedures and the laws and regulations applicable to the CPBC. We also reviewed the CPBC's compliance with state contracting procedures and examined the CPBC's decision-making authority in awarding contracts. In addition, we interviewed CPBC commissioners, CPBC staff, and personnel at various public broadcasting stations and associations.

To evaluate the CPBC's accounting controls, we examined its accounting procedures and records to determine whether expenditures are properly charged to programs and to determine whether budgeted amounts are overexpended. We also interviewed officials and staff from the California

Postsecondary Education Commission, the Department of Finance, and the Department of General Services.

Finally, to evaluate the CPBC's personnel administration, we reviewed its compliance with state policies regarding the hiring of special consultants, reporting of attendance, and compensating for overtime. We also reviewed the CPBC's conflict of interest policy and commission members' activities that may constitute a conflict of interest. Additionally, we interviewed an official from the Fair Political Practices Commission for information on legal requirements pertaining to the disclosure of state officials' financial interests.

AUDIT RESULTS

I

IMPROVEMENTS NEEDED IN CONTRACT AND GRANT ADMINISTRATION

The California Public Broadcasting Commission needs to improve its administration of contracts and grants. The CPBC does not have a formal policy that sufficiently defines the executive secretary's authority in awarding contracts and grants. Consequently, the executive secretary has made decisions regarding contracts and grants that may not have always reflected CPBC priorities. Further, the CPBC has allowed contractors to begin work before their contracts received final approval from the Department of General Services, and the CPBC awarded two contracts when the availability of funds was uncertain. By doing so, the CPBC incurred an unapproved financial liability. Finally, the CPBC did not award direct aid and fellowship grants in a timely manner during fiscal year 1981-82. However, the CPBC awarded these grants more promptly in the current fiscal year.

Unclear Policy Regarding Contract and Grant Approval

The CPBC's executive secretary is responsible for carrying out the CPBC's decisions and for managing the CPBC

staff. We found, however, that the executive secretary's authority is not sufficiently defined and that confusion exists within the CPBC regarding the extent of the executive secretary's authority to award contracts and grants.

The expenditure of most of the CPBC's funds is either designated by the Legislature or approved in advance by the commissioners.* The Budget Act of 1982 required the CPBC to distribute \$340,000 in grants to 12 public television and 25 public radio stations in California.** The Budget Act also directed the CPBC to provide \$368,984 to the Association of California Public Radio Stations to coordinate the production and distribution of statewide news and public affairs programs. In addition, the commissioners approved a grant to the Association of California Public Television Stations for approximately \$524,000. Statutes also allow the CPBC to award contracts and grants to implement other programs, such as telecommunications planning studies, that are not specifically designated at the beginning of the fiscal year.

* Throughout this report, we use the term "commissioners" to refer to the 11-member body responsible for carrying out the responsibilities of the CPBC.

** Currently, there are 26 public radio stations.

The CPBC's executive secretary is responsible for carrying out the CPBC's decisions and for managing CPBC staff. However, the executive secretary's authority to execute contracts is not specifically defined in statutes. When such authority is not specified by statute, the State Administrative Manual requires a commission to provide, through resolution, order, or motion, an official's authority for executing contracts. In June 1982, the CPBC specified the executive secretary's authority for awarding contracts as follows:

...to authorize the Executive (secretary),
with the advice and consultation of the
Chairs of the Grant and Budget Committees,
to execute (sign) contracts on behalf of
the California Public Broadcasting
Commission.

We found, however, that confusion exists within the CPBC regarding the intent of this authority. The CPBC policy does not sufficiently define which decisions the executive secretary may make independently and which must be voted on by the commissioners. Further, the executive secretary's interpretation of his authority to execute contracts and grants differs from that of the commissioners.

The executive secretary stated that he generally has the authority to award contracts and grants independently unless the contracts are to be competitively bid or unless there are unusual circumstances involving the contract or

grant. He stated that because the commissioners approve the CPBC's budget, he may award most contracts to implement the programs that are specified in this budget. The executive secretary also said that if he is unsure of his authority regarding a particular contract or grant, he may defer to the chairman of the CPBC to determine whether the contract or grant needs prior approval by the commissioners.

To clarify what authority the commissioners believe the executive secretary has in awarding contracts and grants, we contacted seven commissioners, including the chairman of the CPBC and the chairmen of the grants, budget, and policy committees. The consensus of the commissioners we contacted was that the executive secretary could not award contracts or grants without approval by the commissioners. However, they did state that the executive secretary can enter into most interagency agreements to assist in the administrative needs of the CPBC. Although the CPBC's chairman and vice-chairwoman concurred with this consensus, they also pointed out that most contracts and grants in the past were not approved by the commissioners.

We also contacted three other state commissions and one state council to determine the authority of their executive directors in awarding contracts and grants. Officials from three of these entities stated that their executive directors

must obtain approval from a majority of the commissioners or council members before contracting for services or issuing grants. The official from the fourth entity reported that approval from the commissioners was necessary for grants that were issued in the past, but that in accordance with a commission resolution, the executive director is now authorized to contract for services.

Although we did not review all of the contracts and grants awarded in the past two years, we did identify four instances in which the executive secretary awarded contracts and grants without approval by the commissioners. In these cases, the CPBC cannot ensure that the commissioners would have approved the contracts and grants if they had been submitted for review. For example, some CPBC grants for public broadcasting programs are selected and funded by a joint committee representing the CPBC and the California Council for the Humanities. This joint committee chooses programs proposed by various competing organizations. When these organizations complete a program, it is made available to other public broadcasting facilities in the State. In 1981, the joint committee rejected a proposed documentary on the California Conservation Corps. Nevertheless, the executive secretary awarded a \$25,000 grant to produce the documentary without the approval of the commissioners.

The executive secretary stated that he did not seek the commissioners' approval for this grant for two reasons. First, the commissioners had approved the entire CPBC budget, and he was awarding the grant to implement the public television programming portion of that budget. Second, the CPBC received \$20,000 from other state entities to produce the program; therefore, CPBC funds constituted only \$5,000 of the grant.

The chairman of the grants committee stated that even if such grants are supplemented by non-CPBC funds, it is the commissioners' responsibility to ensure that all CPBC funds and CPBC-sponsored programs best serve the State's public broadcasting needs. He stated further that the proposed documentary had been rejected by the joint committee because it was an inferior proposal and that the proposal should have been submitted to the commissioners for review and approval before the grant was awarded.

In another instance, the executive secretary awarded a contract for \$68,000 to the San Diego State University Foundation without the approval of the commissioners. The contract involved developing a minimum of five telecommunications planning models in different localities. This contract was awarded as a continuation of another contract for a statewide telecommunications planning project. According

to the commissioners we contacted, the \$68,000 contract also should have been approved by the commissioners before it was awarded. The amount of the agreement makes this one of the largest CPBC contracts awarded in the 1982-83 fiscal year.

Although confusion exists regarding the approval process for awarding contracts and grants, the consensus of the commissioners we contacted was that these awards should have been approved by the commission. In the absence of written policies that sufficiently define the executive secretary's authority, the executive secretary has made contracting decisions without the benefit of the experience and qualifications of the commissioners. Consequently, funds may not be used in accordance with the CPBC priorities.

Improper Contracting Activities

In addition to contract and grant approval policies not being clearly defined, we also found instances of improper contracting practices. In some cases, the CPBC has allowed contractors to start work prior to contract approval by the Department of General Services. In other instances, the CPBC has awarded contracts when the availability of funds was uncertain. By allowing contractors to begin work prior to contract approval and by obligating state funds before they are

available, the CPBC, and thus the State, incurs an unauthorized financial liability.

Both the Government Code and the State Administrative Manual usually require contract approval by the Department of General Services before contractors begin work. Section 14780 of the Government Code states that certain contracts are not effective until they are approved by the Department of General Services. Section 1204 of the State Administrative Manual states that "except in emergency cases...agencies must submit each contract in time for the Department of General Services to approve it prior to commencement of work."

For both personal services contracts requiring Department of General Services' approval that the CPBC entered into in fiscal year 1981-82, the contractor began work before the contract was approved by the Department of General Services. The Department of General Services never did approve one of these contracts.

In one case, the CPBC allowed a contractor to start work even though the Department of General Services had not yet approved the contract, and the contractor had completed a majority of the contracted-for work when the Governor imposed a freeze on contracts. The Department of General Services would thus not approve the contract. Subsequently, the

contractor submitted a claim to the State Board of Control for compensation for work performed. The Board of Control approved the claim and authorized the CPBC to pay the contractor \$31,367.

The executive secretary stated that the CPBC had submitted the contract and the necessary documents to the Legal Division of the Department of General Services in a timely manner. Further, the executive secretary felt that the contract would eventually be approved by the Department of General Services. However, the staff counsel at the Department of General Services and the staff management auditor at the Department of Finance who reviewed the claim for the State Board of Control maintain that the CPBC had neither acted promptly nor properly in submitting required information for contract approval.

We also identified two instances in which contracts were awarded when the availability of funds was uncertain. The CPBC's budget for fiscal year 1982-83 allocated \$157,000 for the construction of telecommunications equipment that would link public broadcasters in California. The 1982 Budget Act specified that these funds could be spent on the project only if matching funds were obtained from another source. In November 1982, the television station manager who was responsible for directing this construction informed the

executive secretary that the project could not be started because the matching funds were not available. Therefore, the \$157,000 would not be used.

In December 1982, the executive secretary used the \$157,000 to award two grants before these funds were approved for redirection. One of the grants provided \$100,000 to construct telecommunications hardware in northern California; the other was a \$57,000 grant to augment a statewide telecommunications planning project. However, because the Legislature had specified conditions under which the CPBC could use these funds, the Department of Finance required the CPBC to apply for formal approval for redirecting the funds. As of April 1983, the Department of Finance had not approved this redirection.

The executive secretary believed that he could redirect these funds without formal approval from the Department of Finance. He stated that he entered into these contracts to ensure that the CPBC would be able to use the funds. Further, he said that both contractors were told not to spend any funds on the projects until instructed to do so by the CPBC. However, one of these contractors said that the CPBC had not informed him that funding was tentative until approximately three weeks after the contract was awarded and that he was not formally notified not to spend funds until two

months after the award. This contractor also stated that although work had begun on the contract, this work could be paid for with funds remaining in another contract that he has with the CPBC.

Untimely Awarding of Grants

As a part of this study, we were requested to review the CPBC's distribution of grants. The CPBC provides grants to 38 qualified public television and radio stations. Stations may use direct aid grants for general operations or for program production. In the 1981-82 fiscal year, the CPBC established a Fellowship Program designed to enhance the quality of public broadcasting. The CPBC planned to achieve this objective by contracting with public broadcasting facilities to place a fellow in a management position at a facility, and by partially paying the fellow's salary, travel, and training costs. To maximize the benefits of these grants, stations should receive funds in a timely manner.

In fiscal year 1981-82, most stations did not receive direct aid payments or contracts for fellowship grants until approximately 10 months into the fiscal year. Generally, the amount of a direct aid grant is small when compared to a station's overall budget; however, several of the radio stations we contacted indicated that they experienced problems

because their grant funds were delayed. For example, one of the stations planned to use the grant to purchase equipment available at a discount price, but because the grant was late, the station had to pay a higher price.

However, for fiscal year 1982-83, the CPBC awarded both direct aid and fellowship grants in a more timely manner. Most of the stations received the grants by December 1982, six months into the fiscal year. Station personnel we contacted noted that they have not experienced any significant problems with the grant awards for fiscal year 1982-83.

The CPBC's executive secretary stated that direct aid grant payments were late in fiscal year 1981-82 because that was the first year the grants were being awarded as contracts, and it thus took longer to finalize the grants. It was also the first year of the fellowship program. The awards were made more promptly in fiscal year 1982-83 because the CPBC had planned both grant programs better.

The 1982-83 Budget Act specified the amount of the direct aid grants and the total amount for the fellowship program. For fiscal year 1983-84, the CPBC plans to amend current direct aid grants instead of executing completely new grant agreements. This procedure should help expedite the

grant award process. In addition, the CPBC has decided to award all fellowship grants in October of each year.

CONCLUSION

The California Public Broadcasting Commission needs to improve its administration of contracts and grants. The CPBC does not have policies that sufficiently define the executive secretary's authority to approve contracts and grants. As a result, the executive secretary has made decisions that may not reflect the CPBC's priorities. The CPBC has also allowed contractors to begin work before contracts received final approval from the Department of General Services and before the availability of funds was definite. By doing so, the CPBC incurred an unapproved financial liability for payment to these contractors. Finally, the CPBC did not award direct aid and fellowship grants in a timely manner during fiscal year 1981-82, though it has awarded grants more promptly in the current fiscal year.

RECOMMENDATIONS

To improve its administration of contracts and grants, the California Public Broadcasting Commission should comply with current state policies.

Specifically, the CPBC should take the following actions:

- Develop formal written policies regarding the authority for approving contracts and grants. These policies should clearly define the authority of the executive secretary, the CPBC chairman, and the grants and budget committees in approving grants and contracts;
- Ensure that a contractor does not begin work before the contract is approved by the Department of General Services and inform the contractor that any work performed prior to contract approval is done so at the contractor's own risk;
- Ensure that all funds are available and all required funding approvals have been obtained before entering into a contract; and
- Continue its efforts to improve the timeliness of direct aid and fellowship grant awards.

II

INADEQUATE FISCAL PROCEDURES

The California Public Broadcasting Commission has not properly charged expenditures to specific programs. As a result, the CPBC cannot accurately determine program costs and use these costs for planning future programs. The CPBC has also overexpended budgeted amounts. Moreover, the CPBC lacks a formal policy for determining which budget decisions require commission approval and which budget changes may be acted on by the commission's executive secretary alone. In the absence of formal written policies for approving budget changes, the executive secretary may make budget changes and redirect resources in ways that do not reflect CPBC priorities.

Improper Allocation of Program Costs

The CPBC has not implemented sufficient accounting control procedures to ensure that costs are properly allocated to programs. In particular, the CPBC does not have adequate procedures to allocate the costs of personal services. Section 6012 of the State Administrative Manual requires each state agency to maintain a system of accounting that provides details of costs incurred for each budgeted program.

Our review of the CPBC's payroll procedures disclosed that staff members are not required to maintain timesheets denoting the amount of time worked on specific programs or projects. Section 9200 et seq. of the State Administrative Manual provides procedures that an agency must follow to allocate costs to programs properly. The CPBC's failure to require formal documentation of the amount of time that employees work on budgeted programs has resulted in unsupported allocation of personal service costs to CPBC programs. Therefore, the CPBC cannot determine the true cost of its programs, and its ability to plan for future budget needs is limited.

The executive secretary of the CPBC stated that the CPBC has not implemented appropriate cost allocation procedures because CPBC staff members do not have the necessary expertise in state accounting and budgeting procedures. He also stated that he was unable to obtain assistance from the Department of Finance for establishing accounting procedures.

However, our review disclosed that the Contracted Fiscal Services Unit of the Department of General Services provided accounting services to the CPBC through June 30, 1982, and that since then, the California Postsecondary Education Commission has provided the CPBC with accounting services. These accounting services include assisting with budget

preparation, establishing accounting records for the budget, processing and recording expenditure payments, and preparing year-end financial statements. The accounting supervisors from both the Contracted Fiscal Services Unit and the California Postsecondary Education Commission said that in addition to the services indicated above, they provided the CPBC with assistance and advice concerning general fiscal procedures whenever the CPBC requested. The executive secretary stated that the CPBC plans to implement procedures that will allocate personal service costs to programs for fiscal year 1983-84.

Budgetary Problems

The CPBC has experienced budgetary problems for the last two fiscal years. In fiscal year 1980-81, the CPBC overexpended its budget appropriation by \$46,000. For fiscal year 1981-82, the CPBC would have again overexpended its budget appropriation if it had not been for the Governor's freeze on equipment purchases that prevented the CPBC from using \$108,500 allocated for equipment. Because the Legislature had appropriated these funds only for the purchase of specific telecommunications equipment, the CPBC could not use the funds for other purposes and thus did not spend the funds. At the end of the 1981-82 fiscal year, the CPBC's total budget balance

was \$99,819. If the CPBC had spent the \$108,500, it would have had a budget deficiency of approximately \$9,000 in that fiscal year.

According to the CPBC's executive secretary, these budgetary problems are the result of several factors. The executive secretary stated that the CPBC expected to have a budget deficiency for fiscal year 1980-81 because it was going through a reorganization. He said that the CPBC's budgetary problems during fiscal year 1981-82 were the result of unexpected expenditures, such as a report on cable television required by the Legislature. In addition, the executive secretary stated that the CPBC staff's lack of familiarity with state accounting and budgeting procedures contributed to the budget problems in both fiscal years. For example, because the staff were unfamiliar with state accounting procedures, the CPBC did not provide accurate or timely expenditure documents to the Contracted Fiscal Services Unit. Consequently, the CPBC's budget reports were inadequate.

Although most of these problems appear to have been corrected since the California Postsecondary Education Commission began providing accounting services to the CPBC, the CPBC still may incur budgetary problems. The supervisor of the accounting unit at the California Postsecondary Education Commission projects that the CPBC will experience budgetary

problems again in fiscal year 1982-83 and that the CPBC could overspend budgeted items unless it takes corrective action to reduce expenditures for the remainder of the year.

Inadequate Policy
Regarding Budget Decisions

The CPBC does not have formal written policies that specify the executive secretary's authority to make budget decisions without the commissioners' approval. In the absence of formal written policies for approving budget changes, the executive secretary may make budget changes that are not in accordance with the CPBC's priorities.

Although the CPBC does not have formal written policies that specify when the commissioners must approve a change to the budget, the CPBC has established a budget committee that is responsible for tracking the proposed budget and for monitoring expenditures for the fiscal year. The chairman of the budget committee stated that all changes to the budget should be decided upon by the commissioners and that if there is insufficient time for such review, the changes should at least be discussed with the budget committee.

However, we found that the executive secretary has initiated budget changes without the approval of the commissioners. For example, in January 1983, the CPBC was

required by Executive Order to make a 2 percent unallocated budget cut. Although the executive secretary informed the commissioners that this reduction had been ordered, he did not seek advice from the commissioners or inform the commissioners of the program funds he chose to reduce. Moreover, the executive secretary chose to reduce the budget for the production of statewide public broadcasting programs even though these programs had been ranked among the CPBC's highest priorities. When the executive secretary informed the commissioners of these program reductions at a meeting in February 1983, the commissioners instructed the executive secretary to redirect the budget cuts to programs of lower priority.

The chairman of the budget committee stated that he should have been informed of the required budget cut immediately. The executive secretary said that he did not seek the commissioners' approval because he believed that funds for public broadcasting programs could more afford to be reduced than could CPBC administrative funds. The executive secretary also said that he did not have sufficient time to contact either the budget committee or the commissioners because the Department of Finance wanted an immediate response indicating where the budget cuts would be made.

CONCLUSION

The California Public Broadcasting Commission needs to improve its accounting and fiscal monitoring procedures. Because the CPBC has not properly charged expenditures to specific programs, it cannot accurately determine program costs, and its ability to plan for future budget needs is limited. Further, the CPBC has overexpended budgeted amounts. Finally, the CPBC lacks a formal policy for determining which budget decisions require approval by the commissioners and which budget decisions may be made by the CPBC's executive secretary alone. Therefore, the executive secretary may make budget changes and redirect resources in ways that do not reflect CPBC priorities.

RECOMMENDATIONS

To improve its management of fiscal operations, the California Public Broadcasting Commission should take the following actions:

- With the assistance of the Accounting Unit of the California Postsecondary Education Commission, implement cost allocation accounting

procedures that will identify all costs by budgeted programs;

- Closely monitor expenditures to ensure that budgeted amounts are not overexpended; and
- Develop formal written policy to specify the executive secretary's authority in making budget changes.

III

IMPROVEMENTS NEEDED IN PERSONNEL ADMINISTRATION

The California Public Broadcasting Commission needs to improve its personnel administration. The CPBC has not fully complied with state policies and regulations regarding the hiring of special consultants and the reporting of attendance. As a result, the CPBC may incur unnecessary expenses. Additionally, the CPBC has allowed staff to be routinely paid for overtime, an action that does not demonstrate good administrative practice and increases state costs. Finally, commissioners have participated in decision-making activities that may involve a conflict of interest. As a result, CPBC policy could be formulated for private or personal interests and not in the best interest of the State.

Inappropriate Hiring of Special Consultants

The CPBC has authorized special consultants to begin working before their appointments were approved by the State Personnel Board. The CPBC has also hired a special consultant to perform a task that could have been accomplished by a civil service employee. By authorizing special consultants to work

before State Personnel Board approval, the CPBC, and thus the State, places itself in a financially liable situation for payment to those consultants. Further, by hiring special consultants to perform tasks that could be performed by a civil service employee, the CPBC incurs an unnecessary expenditure.

According to the State Personnel Board's policies and procedures, special consultants may be hired to meet short-term needs for highly specialized technical skills that are not available through the civil service. Moreover, limited term or temporary appointments such as special consultants require approval by the State Personnel Board. In seeking this approval for a special consultant, a state agency must submit a statement of need, explaining what civil service options have been explored and justifying why someone from outside of state service is necessary. The agency must also provide a statement of what the consultant will do and describe the specific tasks to be performed.

In our review of the CPBC's use of special consultants, we found that the CPBC has hired special consultants before they were approved by the State Personnel Board. Seven of the 13 special consultants whose services the CPBC paid for in fiscal year 1981-82 started work prior to the State Personnel Board's approval. In 2 of these instances, the consultants had completed the special projects assigned before

their appointments had been approved. Furthermore, in both of these instances, the dates on the justification and the work statement that the CPBC submitted to the State Personnel Board for approval were later than the dates indicated on the consultants' completed projects. Hence, it appears that the CPBC submitted the requests for the special consultancy appointments after the consultants had completed their work. The CPBC's appointment requests did not, however, indicate that work had begun or had been completed.

The executive secretary said that he was unaware that one of these consultants had begun working before the State Personnel Board approved the appointment, and he could not provide any reason why the consultant would begin working before authorized to do so. In the other instance, the executive secretary stated that he thought the consultant's appointment had been approved and discovered that it had not been approved only after the consultant had completed her work. It does seem, however, that the CPBC has taken corrective action in this area. All five of the special consultants who have been hired in fiscal year 1982-83 began work after the State Personnel Board approved their appointments.

The CPBC also hired a special consultant to perform activities that could have been performed by a civil service employee. The CPBC hired a special consultant to provide a

legal analysis of the CPBC's legislative mandate regarding telecommunications. The CPBC did not first seek an opinion from an existing state resource such as the Attorney General. The executive secretary of the CPBC indicated that the analysis required background in communications law, which he believes is not available through the Attorney General's office. However, the Chief of the Opinion Unit of the Attorney General's office stated that this unit provides opinions requiring specialized analysis for many state agencies and that it is not uncommon for the unit to analyze an entity's legislative mandate. In addition, because the CPBC is funded by the General Fund, there is no charge to the CPBC for legal opinions provided by the Attorney General. Thus, by hiring the special consultant in this instance, the CPBC incurred an unnecessary expense.

Inadequate Attendance Reporting

The CPBC has not complied with state regulations in reporting attendance for two of its staff. As a result, the attendance records for these two employees are inaccurate. Because attendance records are the basis for payments made to employees for approved absences, inaccurate records may result in employees' using or being paid for more leave time than they are entitled to.

Each state agency must maintain a complete record of attendance and absences of each state employee during each pay period. These records ensure that an employee is properly paid and that the State does not incur any unnecessary payroll costs. Personnel units use employee leave balances to verify that an employee has adequate accrued leave time to cover absences for vacation or sick leave. An employee is not paid for time used when that time exceeds the employee's leave balance. Additionally, an employee who leaves state service receives paid compensation for accumulated hours of vacation.

During our review of the CPBC's attendance reports, we found that as of March 1983, the CPBC had not reported leave time used by two of its employees. Interviews with the CPBC executive secretary and a CPBC program analyst revealed that the two employees in question were, in fact, gone from work on occasion for both vacation and illness. The executive secretary of the CPBC stated that the two employees for which no time had been reported had been off on authorized unofficial CTO. He explained that these employees are in classifications for which State Personnel Board rules do not allow paid compensation or CTO for overtime worked. The positions held by these employees require that they frequently work more than 40 hours per week. For this reason, these two employees received authorization to take time off without using either vacation or sick leave credits.

We found that one of these employees has not reported use of any leave time for the entire 32-month period that the employee has worked at the CPBC. This employee was reportedly off work for a two-week period for personal reasons and occasionally took other days off that the CPBC did not report. This employee is in a nonstatutory exempt position, which is a noncivil service classification. The Government Code allows the commissioners to adopt regulations to direct this employee's use and reporting of vacation time. However, because the commissioners have not adopted such regulations, this employee is subject to the same requirements for accumulating and using vacation credits as civil service employees. Both nonstatutory exempt and civil service employees must comply with the civil service requirements for reporting sick leave.

We requested an opinion from the Department of Personnel Administration to determine whether the commissioners could authorize this employee to be absent from work for a period of time without using vacation or sick leave hours. The Department of Personnel Administration's opinion stated that vacation and sick leave used by this employee should be charged against accrued vacation and sick leave credits and approved by the commissioners. Further, the Chief of the Department of Personnel Administration's Programs and Policy Branch stated

that an employee in this exempt position cannot receive paid compensation or CTO for overtime worked.

The other employee in question has been employed by the CPBC for 16 months and has reported use of only one day of sick leave during this time. This employee has also taken occasional days off that the CPBC did not report. Because this employee is in a civil service classification, she is subject to the standard vacation and sick leave regulations administered by the Department of Personnel Administration. For this employee, State Personnel Board rules allow compensating time off only for extra hours worked on holidays.

Questionable Overtime Compensation

The CPBC has allowed program analysts to be paid for overtime worked even though this action does not demonstrate good administrative practice. Rule 133 of the State Personnel Board allows employees in this class to be compensated in CTO or in cash for overtime worked. State Personnel Board Rule 132 states that when CTO is not practicable, the appointing authority (for the CPBC, the executive secretary) may authorize cash compensation. Other state agencies that we contacted during our review allow only clerical and support staff to be paid for overtime. Employees in professional classifications, such as program analysts, normally accrue CTO for overtime

worked. When the executive secretary authorizes CPBC program analysts cash compensation for overtime worked, based on State Personnel Board rules, they are paid at a rate of \$17.03 per hour, approximately 1.4 times their regular hourly rate. If overtime is compensated by CTO, CTO is earned on an hour-for-hour basis.

Our review of overtime records for fiscal year 1981-82 revealed that the CPBC paid \$11,510 to five program analysts for overtime. One of these program analysts received \$6,300; another received \$3,430. The remaining three program analysts received a combined total of \$1,780.

The deputy director of the CPBC stated that effective July 1, 1982, program analysts would be allowed only compensating time off for overtime worked. However, overtime records for fiscal year 1982-83 show that the CPBC has continued to allow one program analyst to be paid for overtime. From August 1982 through January 1983, this program analyst received \$1,470 in overtime pay.

The deputy director of the CPBC stated that, during fiscal year 1981-82, the CPBC did not have a written policy regarding compensation allowed to program analysts for overtime worked. Program analysts could request compensation in CTO or in cash, subject to the approval of the CPBC's executive

secretary. During fiscal year 1982-83, however, the CPBC implemented policies to reduce overtime expenditures. The deputy director stated that the one employee paid for overtime during fiscal year 1982-83 was granted this paid overtime to compensate for a position upgrade and pay increase that was promised by CPBC management but that has not been approved by the State Personnel Board.

The CPBC's administrative decision that allowed program analysts to be routinely paid for overtime increased the State's cost. Overtime paid to CPBC program analysts during the 1981-82 and 1982-83 fiscal years totaled \$14,880. In both fiscal years, the CPBC overexpended the amount budgeted for overtime. If the CPBC had authorized compensation in CTO earned on an hour-for-hour basis, we estimate that the total paid would have been \$10,920, resulting in a net savings of \$3,960.

Conflict of Interest

CPBC commissioners have, on occasion, participated in decision-making activities that may involve a conflict of interest. As a result, state policy could be formulated for personal or private interests rather than in the best interest of the State. Government Code Section 87100 prohibits a public official from participating in a governmental decision in which

the official knows that he or she has a financial interest. Since commissioners are members of a state commission having decision-making authority, they are considered public officials.

We found that the participation of some commissioners in developing CPBC policy pertaining to cable communications in the State may involve a conflict of interest. In April 1982, the CPBC issued a report on the effects of Assembly Bill 699, which pertained to cable communications. This report recommended that cable communication rates be deregulated for an additional five years. The report also stated that the State's cable communications policy inadequately protected consumers with respect to service standards and availability, access to programming opportunities, diversity of program choices, and special population needs. Subsequently, the Legislature requested that the CPBC prepare a second report providing specific recommendations for the State's cable communications policy and for legislative action; the report was also to discuss the effect of legislation on consumers.

In discussions of the first CPBC report on cable communications, during the CPBC's budget hearing in 1982, it was revealed that one of the commissioners may have had a conflict of interest because of his financial involvement in several cable television companies. This commissioner

subsequently sought advice from the Fair Political Practices Commission on whether he could participate in the discussion and vote on matters concerning the second CPBC report on cable communications. After examining this commissioner's involvement with cable entities, the Fair Political Practices Commission concluded the following:

【The commissioner】 may not participate in the discussions and decisions concerning the preparation of the report if it is reasonably foreseeable that any of the recommendations being considered for the initial draft of the report, if adopted by the Legislature, would have a material financial effect on any of the cable companies in which he has an investment interest, that are sources of income to him, or in which he holds business positions.

In addition to the commissioner mentioned above, we found that other commissioners are or have been involved in activities related to cable communication entities. In order to determine whether these activities involve a conflict of interest, we requested an opinion from the Legislative Counsel. This opinion concluded that participation in CPBC decision-making functions may have involved a conflict of interest for the commissioner mentioned above and at least one other commissioner.

Although state regulations require members of commissions to disclose their financial interests, the CPBC has not established procedures for reviewing the economic interest statements and determining whether any financial interest may constitute a conflict of interest. Recently, the CPBC amended its own economic interest statement to require commissioners to disclose financial interest specifically in cable communication entities.

The Chief of the Legal Division of the Fair Political Practices Commission stated that the Fair Political Practices Commission does not review every statement for possible conflict of interest. She stated that it is the responsibility of a public official to disclose all financial interests on an economic interest statement. If the official believes that a possible conflict of interest exists, the official should seek advice either from an attorney in his or her agency or from the Fair Political Practices Commission.

CONCLUSION

The California Public Broadcasting Commission has not fully complied with state policies regarding the hiring of special consultants and the reporting of personnel attendance. As a result, the CPBC may incur unnecessary expenses. Also, the CPBC has

allowed staff to be routinely paid for overtime, an action that does not demonstrate good administrative practice and increases state costs. Finally, the CPBC has not fully addressed potential problems related to conflict of interest, and commissioners may be participating in activities that involve a conflict of interest. As a result, policy decisions may not be made in the best interest of the State.

RECOMMENDATIONS

To address the problems related to personnel administration, the California Public Broadcasting Commission should do the following:

- Comply with state policies regarding the hiring of special consultants. The CPBC should not allow special consultants to work before the State Personnel Board approves their appointments. Also, the CPBC should only hire special consultants when the services to be performed are not available through the civil service system;
- Comply with State Personnel Board rules regarding compensation for overtime hours worked;

- Require the nonstatutory exempt employee to use accrued vacation or sick leave credit when absent from work for extended periods of time for vacation or illness; and
- Comply with CPBC policy by using compensating time off to compensate program analysts for overtime worked.

To address the possible problems related to conflict of interest, the CPBC should designate one staff member as responsible for reviewing for possible conflict of interest all economic interest statements submitted by commissioners. If an economic interest statement identifies activities that may constitute a conflict of interest, the CPBC should seek advice from the Fair Political Practices Commission.

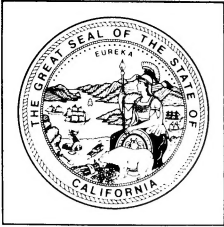
We conducted this audit under the authority vested in the Auditor General by Section 10500 et seq. of the California Government Code and according to generally accepted government auditing standards. We limited our review to those areas specifically contained in the audit request.

Respectfully submitted,

May P. White
for _____
THOMAS W. HAYES
Auditor General

Date: May 16, 1983

Staff: Steven L. Schutte, Audit Manager
Dennis L. Sequeira
Janet McDaniel
Linda Foster
Glenn A. Ostapeck
Sandra L. Lee
John E. Cook



State and Consumer Services Agency

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May 9, 1983

Thomas W. Hayes
Auditor General
925 L Street, Suite 750
Sacramento, California 95814

Re: Auditor General's Report - California Public
Broadcasting Commission

Dear Mr. Hayes:

We have reviewed the Auditor General's report on the California Public Broadcasting Commission dated May 1983.

The report contains a great deal of information regarding the past practices and policies within the California Public Broadcasting Commission. As the Agency is assigned the administrative oversight to the Commission, we welcome the findings of the Auditor General and will work closely with the California Public Broadcasting Commission and its staff in implementing the various changes in policies and procedures recommended by the staff of the Auditor General.

We have taken the liberty of requesting and attaching the comments to the Auditor General's report made by Edward L. McClarty, Chairman of the California Public Broadcasting Commission.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Shirley R. Chilton'.

SHIRLEY R. CHILTON
Secretary of the Agency

SRC:jk

Attachment

Reply of the California Public Broadcasting Commission
to Report P-267, OFFICE OF THE AUDITOR GENERAL

On behalf of the California Public Broadcasting Commission, I am pleased to respond to the Draft Report of the Office of the Auditor General. The Report is the result of intensive work by staff of the Auditor General over a four-month period. During this period, Audit staff clarified a number of issues and made many helpful suggestions which will strengthen CPBC administration and program management.

The Report contains many recommendations, all of which are important. We are pleased that the report takes notice of substantial progress in most areas related to contracts and grants, fiscal procedures and controls and personnel administration.

The recommendations could not have been more timely. During the past two years, the Commission has grown substantially in budget, program responsibilities, and special projects and studies which hold great promise for public broadcasting, education and government. Full implementation of the recommendations contained in the Report will permit the Commission to be a more effective and efficient organization, better able to meet its priorities in public broadcasting, public telecommunications, demonstration and research, instructional programming and cable.

The Commission will pay attention to development of clear decision-making processes and even more careful implementation of State administrative policies and procedures.

The Commission would welcome Supplemental Language regarding the recommendations should the Legislature desire such language.

While I would take exception to some of the assertions, judgments and inferences contained in the body of the Report, I am of the strong opinion that no constructive purpose would be served by argument and refutation.

The Commission wishes to note the efforts of every member of the Commission staff to cooperate with Audit personnel, to answer questions as completely as possible, and to devote substantial time and energy to the audit process concurrently with demanding program responsibilities.

At its July 1983 meeting, the Commission will discuss each recommendation, establish timelines for implementation, and determine methods for periodic review and evaluation. I anticipate no difficulty in accomplishing full compliance with recommendations contained in Report P-267.

Sincerely,



Edward L. McClarty
Chairman
California Public Broadcasting Commission

May 5, 1983

RECEIVED
STATE AND CONSUMER SERVICES AGENCY
MAY 5 1983

cc: Members of the Legislature
Office of the Governor
Office of the Lieutenant Governor
State Controller
Legislative Analyst
Director of Finance
Assembly Office of Research
Senate Office of Research
Assembly Majority/Minority Consultants
Senate Majority/Minority Consultants
Capitol Press Corps